

REMARKS

Claim 3 has been rejected as unpatentable over newly cited Stover, claim 4 has been rejected as unpatentable over Stover in view of Groeller, and claim 5 has been rejected as unpatentable over Stover in view of Groeller and Roney. Reconsideration is respectfully requested in view of the above amendments and following considerations.

Stover discloses an automotive signaling device that is attached toward the lower portion of the left rear fender of a 1916 vintage open top automobile. The Stover device serves as a license plate holder and has four incandescent bulbs each with a unique lens. The center left round lens is green, and the center right round lens is red. The outside left lens is a left arrow, and the outside right lens is a right arrow. On an automobile of 1916 vintage, many of which are on display in museums in the Detroit area, the height of the Stover device would be about three feet or less above the pavement. As pictured in Stover, the Stover device is about half the distance between the seat back top or steering wheel top and the pavement. Were there a roof on the Stover automobile, the Stover device would be well below the midpoint of the height of the Stover automobile. The Stover device is clearly not adjacent the top of the Stover vehicle as contended by the examiner at the bottom of page two in the examiner's action.

Secondly, as noted above, the Stover device has both right and left turn signals. To duplicate the Stover device on the right side of the Stover automobile as the examiner argues at the top of page three of the action, while seemingly obvious, actually creates a very unsafe configuration, especially at night or under dim and foggy weather conditions. At a distance, an arrow shaped light loses its shape and becomes a bright spot. Thus, to duplicate the Stover device on the right side would result in a bright spot on each side of the vehicle without any indication which way the vehicle is going to

turn. Furthermore, were the Stover devices to be equipped with a flasher, as modern automobiles are equipped, the Stover devices would exactly simulate the warning flashers that all modern automobiles are provided. Clearly, Stover makes no suggestion of mounting the signaling lights high up on a vehicle at each side adjacent the roof so that they can be easily seen by several following vehicles.

Today over one-half the non-commercial vehicles sold and on the road are vans, pickup trucks and sport utility vehicles, all of which are significantly taller than passenger automobiles. With several of these vehicles between a driver and a large commercial truck or bus, it is impossible for the driver to see both the left and right side tail light, stop light and turn signal devices on a truck or bus because they are three to four feet above the pavement.

As is clear from applicant's drawing figures, applicant's devices are mounted as near the truck's maximum height as is practicable. For a common enclosed semi-trailer or truck, the elevation is about 13 feet or more above the pavement, a height obviously not contemplated in Stover. Applicant's independent claim 3 has been further amended above to make clear the height relationship of the first vehicle in relation to the plurality of vehicles following there behind.

In *In re Fritch*, 922 F.2d 1260, 23 USPQ.2d 1780 (Fed. Cir. 1992), the Court held:

"Mere fact that prior art may be modified to reflect features of claimed invention does not make modification, and hence claimed invention, obvious unless **desirability** of such modification is suggested by prior art...." [at 1780] [**Emphasis added**]

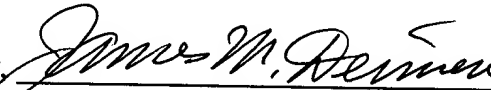
"The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the **desirability** of the modification. *In re Gordon*, 733 F.2d at 902, 221 USPQ at 1127." [at 1783] [**Emphasis added**]

Therefore, claim 3 clearly is patentable over Stover.

Claims 4 and 5 incorporate claim 3 by reference and therefore are believed allowable upon the allowance of claim 3.

Respectfully submitted,

JEFF L. HYMER

By, 

James M. Deimen, #25504
320 N. Main Street, Suite 300
Ann Arbor, MI 48104-1192
Telephone: (734) 994-5947
Facsimile: (734) 769-2702

(JMD/Hymer Resp. to Action 07-05-00)